

2C:44-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:44-5

(Sentencing - consecutive sentences for offenses committed while pending disposition of previous offense)

LAWS OF: 1983

CHAPTER: 462

Bill No: A483

Sponsor(s): Thompson and others

Date Introduced: Pre-filed

Committee:

Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: YES A amendments denoted by asterisks  
According to Governor's recommendations

Date of Passage: Assembly: May 26, 1983 Re-enacted 12/12/83

Senate: August 29, 1983 Re-enacted 1/9/84

Date of Approval: January 12, 1984

Following statements are attached if available:

Sponsor statement: YES

Committee statement: Assembly NO

Senate YES

Fiscal Note: NO

Veto Message: YES

Message on Signing: YES

Following were printed:

Reports: NO

Hearings: NO

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ASSEMBLY, No. 483

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION  
By Assemblymen THOMPSON, ADUBATO, ZANGARI, McENROE  
and BAER

AN ACT concerning sentences imposed for offenses committed  
while released pending disposition of a previous offense  
under certain circumstances and amending N. J. S. 2C:44-5.

BE IT ENACTED by the Senate and General Assembly of the State  
of New Jersey:

1. N. J. S. 2C:44-5 is amended to read as follows:

2C:44-5. Multiple Sentences; Concurrent and Consecutive

Terms. a. Sentences of imprisonment for more than one offense.

When multiple sentences of imprisonment are imposed on a de-

fendant for more than one offense, including an offense for which

a previous suspended sentence or sentence of probation has been

revoked, such multiple sentences shall run concurrently or consecu-

tively as the court determines at the time of sentence, except that:

(1) [A term to a State penal or correctional institution and a

definite term to a county institution shall run concurrently and

both sentences shall be satisfied by service of the State term; and

(2) ] The aggregate of consecutive terms to a county institu-

tion shall not exceed 18 months; and

[(3)] (2) Not more than one sentence for an extended

term shall be imposed.

b. Sentences of imprisonment imposed at different times. When

a defendant who has previously been sentenced to imprisonment

is subsequently sentenced to another term for an offense committed

prior to the former sentence, other than an offense committed while

in custody;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly committee amendments adopted April 11, 1983.

\*\*—Assembly amendments adopted in accordance with Governor's recom-  
mendations November 21, 1983.

21 (1) The multiple sentences imposed shall so far as possible con-  
22 form to subsection a. of this section; and

23 (2) Whether the court determines that the terms shall run con-  
24 currently or consecutively, the defendant shall be credited with  
25 time served in imprisonment on the prior sentence in determining  
26 the permissible aggregate length of the term or terms remaining  
27 to be served; and

28 (3) When a new sentence is imposed on a prisoner who is on  
29 parole, the balance of the parole term on the former sentence shall  
30 *\*\*not\*\** be deemed to run during the period of the new imprison-  
30A ment *\*\*unless the court determines otherwise at the time of*  
30B *sentencing\*\**.

31 c. Sentence of imprisonment for offense committed while on  
32 parole. When a defendant is sentenced to imprisonment for an  
33 offense committed while on parole in this State, such term of im-  
34 prisonment and any period of reimprisonment that the parole  
35 board may require the defendant to serve upon the revocation of  
36 his parole shall run *\*\*consecutively unless the court orders these*  
37 *sentences to run\*\** concurrently *\*\*[unless the court orders them*  
37A *to run consecutively]\*\**.

38 d. Multiple sentences of imprisonment in other cases. Except  
39 as otherwise provided in this section, multiple terms of imprison-  
40 ment shall run concurrently or consecutively as the court deter-  
41 mines when the second or subsequent sentence is imposed.

42 e. Calculation of concurrent and consecutive terms of imprison-  
43 ment.

44 (1) When terms of imprisonment run concurrently, the shorter  
45 terms merge in and are satisfied by discharge of the longest term.

46 (2) When terms of imprisonment run consecutively, the terms  
47 are added to arrive at an aggregate term to be served equal to the  
48 sum of all terms.

49 f. Suspension of sentence or probation and imprisonment;  
50 multiple terms of suspension and probation. When a defendant is  
51 sentenced for more than one offense or a defendant already under  
52 sentence is sentenced for another offense committed prior to the  
53 former sentence:

54 (1) The court shall not sentence to probation a defendant who  
55 is under sentence of imprisonment, except as authorized by section  
56 2C:43-2b. (2);

57 (2) Multiple periods of suspension or probation shall run *\*\*con-*  
58 *secutively, unless the court orders these sentences to run\*\** con-  
58A currently from the date of the first such disposition;

59 (3) When a sentence of imprisonment in excess of 1 year is

60 imposed, the service of such sentence shall satisfy a suspended  
61 sentence on another count or prior suspended sentence or sentence  
62 to probation\*\*, *unless the suspended sentence or probation has been*  
62A *violated in which case any imprisonment for the violation shall run*  
62B *consecutively\*\**; and

63 (4) When a sentence of imprisonment of 1 year or less is  
64 imposed, the period of a suspended sentence on another count or  
65 a prior suspended sentence or sentence to probation shall run  
66 during the period of such imprisonment\*\*, *unless the suspended*  
66A *sentence or probation has been violated in which case any imprison-*  
66B *ment for the violation shall run consecutively\*\**.

67 g. Offense committed while under suspension of sentence or pro-  
68 bation. When a defendant is convicted of an offense committed  
69 while under suspension of sentence or on probation and such sus-  
70 pension or probation is not revoked:

71 (1) If the defendant is sentenced to imprisonment in excess of  
72 1 year, the service of such sentence shall *\*\*not\*\** satisfy the prior  
73 suspended sentence or sentence to probation\*\*, *unless the court*  
73A *determines otherwise at the time of sentencing\*\**;

74 (2) If the defendant is sentenced to imprisonment of 1 year or  
75 less, the period of the suspension or probation shall not run during  
76 the period of such imprisonment; and

77 (3) If sentence is suspended or the defendant is sentenced to  
78 probation, the period of such suspension or probation shall run  
79 concurrently with or consecutively to the remainder of the prior  
80 periods, as the court determines at the time of sentence.

81 h. *Offense committed while released pending disposition of a*  
82 *previous offense. When a defendant is sentenced to imprisonment*  
83 *for an offense committed while released, with or without bail,*  
84 *pending disposition of a previous offense, the term of imprison-*  
85 *ment shall run consecutively\*, unless the court orders these sen-*  
86 *tences to run concurrently,\* to any sentence of imprisonment im-*  
87 *posed for the \*[first]\* \*previous\* offense.*

1 2. This act shall take effect immediately.

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68 bation. When a defendant is convicted of an offense committed  
 69 while under suspension of sentence or on probation and such sus-  
 70 pension or probation is not revoked:

71 (1) If the defendant is sentenced to imprisonment in excess of  
 72 1 year, the service of such sentence shall satisfy the prior suspended  
 73 sentence or sentence to probation;

74 (2) If the defendant is sentenced to imprisonment of 1 year or  
 75 less, the period of the suspension or probation shall not run during  
 76 the period of such imprisonment; and

77 (3) If sentence is suspended or the defendant is sentenced to  
 78 probation, the period of such suspension or probation shall run  
 79 concurrently with or consecutively to the remainder of the prior  
 80 periods, as the court determines at the time of sentence.

81 *h. Offense committed while released pending disposition of a*  
 82 *previous offense. When a defendant is sentenced to imprisonment*  
 83 *for an offense committed while released, with or without bail,*  
 84 *pending disposition of a previous offense, the term of imprison-*  
 85 *ment shall run consecutively to any sentence of imprisonment im-*  
 86 *posed for the first offense.*

1 2. This act shall take effect immediately.

Sponsor's

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STATEMENT

The purpose of this bill is to crack down on those who commit crimes while free awaiting disposition of a previous offense.

At the present time, judges have the discretion to impose concurrent sentences in these situations, perhaps leading offenders to believe they can commit two crimes for the price of one.

This bill would require that when a defendant is sentenced to imprisonment for an offense committed while awaiting disposition of a previous offense, the term of imprisonment will be served consecutively to any sentence of imprisonment imposed for the first offense.

If enacted, this bill would keep convicted criminals in jail longer and serve as a deterrent to those planning to commit a crime while released on bail.

A483(1983)

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 483

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STATE OF NEW JERSEY

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DATED: JUNE 27, 1983

This bill provides that if a defendant is sentenced to imprisonment for an offense committed while released pending disposition of a previous offense that the sentences imposed for one each offense shall run consecutively unless the court orders these sentences to run concurrently.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

November 21, 1983

ASSEMBLY BILL NO. 483 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 483 (OCR) with my objections and recommendations for amendment.

This bill amends N.J.S. 2C:44-5 to provide that when a defendant is sentenced to a term of imprisonment for an offense committed while released pending the disposition of a previous offense, either while released with or without bail, the term of imprisonment for the second offense shall run consecutively to any sentence of imprisonment imposed for the previous offense unless the court orders the sentences to run concurrently.

I strongly support the changes proposed in A-483. I have long advocated that persons who commit a second offense while released on bail for a prior offense, should be required to serve consecutive rather than concurrent terms of imprisonment. Such an offender has breached the public trust, and the offender should not be given immediate leniency by the sentencing court.

This problem is broader than just committing an offense while out on bail. What about offenders who commit a subsequent offense while released on parole or probation, or who are serving a suspended sentence? A public trust is also reposed in these persons. If an offender violates that trust, why should society not expect that offender to serve a sentence consecutive to the sentence for the original offense? The offender committed two separate crimes and should be punished for having committed two separate crimes.

N.J.S. 2C:44-5 deals with all of the above issues. A-483 was released from the Assembly Judiciary, Law, Public Safety and Defense Committee after an agreement was reached between the Administration and the Assembly committee regarding comprehensive amendments to N.J.S. 2C:44-5. A-483 was released along with A-1550, and it was the intention of the committee that these two bills be treated as a package. The package has bipartisan support as A-483 is sponsored by a Democrat and A-1550 is sponsored by a Republican. The Assembly honored that commitment and passed A-483 (70-0) and A-1550 (69-0) on May 26, 1983. Both bills were referred to the Senate Judiciary Committee, and that committee

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considered and released both bills one right after the other on June 27, 1983. At that time, testimony was presented to the committee by my office informing the Senators of the prior agreements regarding these bills which were concluded in the Assembly. When A-483 was posted on the Senate Board list for August 29, 1983, my office immediately contacted the Senate and requested that the earlier agreement be honored and that A-1550 be considered by the full Senate along with A-483. Since the passage of A-483, my office has requested at every Senate session that the Senate consider A-1550. To date this request has been denied.

A-483 and A-1550 should be treated as a package. Together, these two bills will effectuate a beneficial comprehensive change to our criminal statutes. Persons who commit multiple offenses while released under some form of public trust should be required to serve a separate sentence for each offense.

In light of the agreement reached between my Administration and the Assembly Judiciary, Law, Public Safety and Defense Committee, I herewith return Assembly Bill No. 483 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Title, Line 1-2: DELETE "while" on line 1 and "released pending disposition of a previous offense" on line 2 INSERT "under certain circumstances"

Page 1, Section 1, Line 9: After "(1)" DELETE entire line.

Page 1, Section 1, Lines 10 and 11: DELETE entire lines.

Page 1, Section 1, Line 12: DELETE "(2)"

Page 1, Section 1, Line 14: DELETE "(3)" INSERT "(2)"

Page 2, Section 1, Line 29: After "shall" INSERT "not"

Page 2, Section 1, Line 30: After "imprisonment" INSERT "unless the court determines otherwise at the time of sentencing"

Page 2, Section 1, Line 36: After "run" INSERT "consecutively unless the court orders these sentences to run"

Page 2, Section 1, Lines 36 and 37: After "concurrently" DELETE ", unless the court orders them to run consecutively"

Page 2, Section 1, Line 57: After "run" INSERT "consecutively, unless the court orders these sentences to run"

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Page 2, Section 1, Line 62: After "probation" INSERT ", unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively"

Page 3, Section 1, Line 66: After "imprisonment" INSERT ", unless the suspended sentence or probation has been violated in which case any imprisonment for the violation shall run consecutively"

Page 3, Section 1, Line 72: After "shall" INSERT "not"

Page 3, Section 1, Line 73: After "probation" INSERT ", unless the court determines otherwise at the time of sentencing"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

FRIDAY, JANUARY 13, 1984

Governor Thomas H. Kean has signed legislation which stiffens sentences for criminals who commit multiple offenses or who commit a crime while free on probation, parole or bail.

The bill, A-483, sponsored by Assemblyman Eugene H. Thompson, D-Essex, also contains provisions of A-1550, sponsored by Assemblywoman Maire S. Muhler, R-Monmouth. The provisions of Mrs. Muhler's bill were incorporated into A-483 by a conditional veto.

The thrust of both bills is to remove all presumptions of concurrent sentences when an individual is convicted of committing more than one offense during the commission of a crime, or when the individual commits a crime while free on bail, parole or probation.

"This legislation represents a very important step in holding criminals more accountable for their actions, and is a very important revision in our criminal code," Kean said. "When a criminal commits two crimes at the same time, there is no reason why he or she should be punished only for one of them.

"By the same token, when a criminal violates the trust placed in him or her by the granting of parole, probation or bail, society has no obligation to show further mercy," the Governor added.

Kean said he believes both bills should have been separately added to the body of criminal law, but decided to incorporate the provisions of Mrs. Muhler's bill into A-483 when it became clear that A-1550 would not be considered in the State Senate before the end of the term. Both houses of the Legislature concurred unanimously with the Governor's recommendations.

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